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## NOTICE OF ALLOWANCE AND FEE(S) DUE

2512

7590

03/12/2010

Perman & Green, LLP  
99 Hawley Lane  
Stratford, CT 06614

EXAMINER

CHEN, VICTORIA W

ART UNIT

PAPER NUMBER

3739

DATE MAILED: 03/12/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,965	07/24/2003	Paul DiCesare	896P011379-US (PAR)	1641
TITLE OF INVENTION: ENHANCED DEXTERITY SURGICAL HAND PIECE				

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	06/14/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** Mail **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
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**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

2512 7590 03/12/2010  
 Perman & Green, LLP  
 99 Hawley Lane  
 Stratford, CT 06614

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/625,965 07/24/2003

Paul DiCesare

896P011379-US (PAR)

1641

TITLE OF INVENTION: ENHANCED DEXTERITY SURGICAL HAND PIECE

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nonprovisional	YES	\$755	\$300	\$0	\$1055	06/14/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
CHEN, VICTORIA W	3739	606-205000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2  
 3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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2512	7590	03/12/2010	EXAMINER	
CHEN, VICTORIA W				
ART UNIT			PAPER NUMBER	

3739

DATE MAILED: 03/12/2010

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 619 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 619 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

**Notice of Allowability****Application No.**

10/625,965

**Examiner**

VICTORIA W. CHEN

**Applicant(s)**

DICESARE ET AL.

**Art Unit**

3739

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to re and amendments filed 2/22/10.
2. ☒ The allowed claim(s) is/are 1-8.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Knotts on 3/9/10.

The application has been amended as follows:

Please replace all claims with the following:

1. (Currently Amended) Manual actuating apparatus for operating a medical device having a common closable jaw for effecting operation of the medical device comprising:

a handle;

a finger loop mounted on the handle for receiving a finger of an operator;

first and second lever members mounted on the handle for grasping engagement by other fingers of the operator, each of the first and second lever members being independently and pivotably mounted on the handle for movement between respective first and second positions wherein the first lever member extends between a mounted end pivotally attached to the handle and a free end and wherein the second lever member extends between a free end and a mounted end pivotally attached to the handle at a location

intermediate the mounted end and the free end of the first lever member;

an interengagement construction between the first lever member and the second lever member such that movement of one of the first or second lever members causes movement of the other one of the first or second lever member such that the first and second lever members move in a coordinated manner between the first and second positions; and

a force transmitting member operably connecting at least one of the finger loop and the first and second lever members to the common closable jaw of the medical device for operating the common closable jaw at a location distant from the handle where movement of the first and second lever members between the first and second positions, relative to the finger loop, causes movement of the common closable jaw for opening and closing the common closable jaw of the medical device;

whereby, in the course of operating the common closable jaw, the first and second lever members are positioned relative to the finger loop so that the operator can reposition the other fingers between the first and second lever members with rotation of the finger within the finger loop while operating the common closable jaw with the finger within the finger loop and thereby assure a comfortable hand posture throughout the complete range of operation of the medical device.

2. (Currently Amended) Manual actuating apparatus as set forth in claim 1

wherein the finger loop is integral with the handle; and

wherein the force transmitting member includes a pull rod attached to the second lever member intermediate the mounted end and the free end and extending away from the finger loop and the first and second lever members to the common closable jaw distant therefrom; and

whereby, with movement of the first and second lever members from initial positions farthest from the finger loop to extended positions nearest to the finger loop, the pull rod is drawn in a direction away from the common closable jaw with appropriate actuation thereof in one manner; and

whereby, with movement of the free ends of the first and second lever members from their respective extended positions toward their initial positions, the pull rod is advanced in the direction toward the common closable jaw with appropriate actuation thereof in an opposite manner.

3. (Currently Amended) Manual actuating apparatus as set forth in claim 2

wherein the interengagement construction includes:

an elongated side on the first lever member and a first nose member projecting acutely away therefrom toward the second lever member and intermediate the mounted end and the free end, the elongated side and the first nose member together defining a recess;

a second nose member on the second lever member extending away therefrom intermediate the mounted end and the free end and

projecting into the recess of the first lever member, the first and second nose members and the elongated side of the first lever member being mutually slidably engageable;

whereby, with movement of the first and second lever members from initial positions farthest from the finger loop to extended positions nearest to the finger loop, the first nose member slidably engages with the second nose member and causes movement of the free ends of the lever members from the initial positions to the extended positions, the pull rod is drawn in a direction away from the medical device with appropriate actuation thereof in one manner; and

whereby, with movement of the free ends of the first and second lever members from their extended positions toward their initial positions, the pull rod is advanced in the direction toward the common closable jaw of the medical device with appropriate actuation thereof in an opposite manner.

4. (Original) Manual actuating apparatus as set forth in claim 1

wherein an upper finger loop is integral with the first lever member at the free end thereof; and

wherein a front finger loop is integral with the second lever member at the free end thereof.

5. (Currently Amended) Manual actuating apparatus as set forth in claim 1

wherein the finger loop is integral with the handle; and



wherein the interengagement construction includes:

a linkage between the first lever member and the second lever member such that the first and second lever members move in a coordinated manner between the first and second positions; and

the force transmitting member including a pull rod attached to the linkage and extending away from the finger loop and away from the first and second lever members to the common closable jaw distant therefrom;

whereby, with movement of the first and second lever members from initial positions farthest from the finger loop to extended positions nearest to the finger loop, the pull rod is drawn in a direction away from the common closable jaw with appropriate actuation thereof in one manner; and

whereby, with movement of the free ends of the first and second lever members from their extended positions toward their initial positions, the pull rod is advanced in the direction toward the common closable jaw with appropriate actuation thereof in another manner.

6. (Original) Manual actuating apparatus as set forth in claim 5

wherein the linkage includes:

a first link pivotally attached to the first lever member; and

a second link pivotally attached at one end to the second lever member and at its opposite end to the first link away from the first lever member; and

wherein the pull rod is pivotally attached to the linkage.

7. (Currently Amended) Manual actuating apparatus as set forth in claim 1

wherein the finger loop is integral with the handle; and

wherein the force transmitting member includes a pull rod attached to the second lever member intermediate the mounted end and the free end and extending away from the finger loop and the first and second lever members to the common closable jaw of the medical device distant therefrom; and

including:

a resilient actuator biasing the first and second lever members toward initial positions, respectively;

whereby, with movement of the first and second lever members from their initial positions farthest from the finger loop to extended positions nearest to the finger loop, the pull rod is drawn in a direction away from the common closable jaw of the medical device with appropriate actuation thereof in one manner; and

whereby, with movement of the free end of the first and second lever members from their respective extended positions toward their respective initial positions, the pull rod is advanced in the direction toward the common closable jaw of the medical device with appropriate actuation thereof in an opposite manner.

8. (Original) Manual actuating apparatus as set forth in claim 7

wherein the resilient actuator includes:

a bracket fixed on the handle spaced from the second lever member in the direction of the finger loop; and

a compression spring extending between and fixed at its opposite ends, respectively, to the second lever member and to the bracket.

9-11. (Cancelled)

***Allowable Subject Matter***

Because all claims previously withdrawn from consideration have been rejoined, **the restriction requirement as set forth in the Office action mailed on 6/28/05 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 1-8 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art fails to teach or suggest a manual actuating apparatus for operating a medical device having a common closable jaw defined by the combination of elements as recited in independent claim 1, including

a finger loop mounted on a handle, a first and second lever members which are independently and pivotably mounted on the handle, the mounted end of the second lever member attached to the handle at a location intermediate the mounted end and free end of the first lever member, an interengagement construction between the first and second lever members such that movement of one of the lever members causes coordinated movement of the other lever member such that a force transmitting member connected to either the finger loop or the lever members is moved and actuates the common closable jaw. Kimura et al. (US 6039752) teaches a medical handle comprising two lever members which are interengaged so as to close and open a common closable jaw, but fails to teach the two lever members as being independently mounted to the handle such that the mounted end of the second lever member attached to the handle at a location intermediate the mounted end and free end of the first lever member.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA W. CHEN whose telephone number is (571)272-3356. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victoria W Chen/  
Examiner, Art Unit 3739

/Michael Peffley/  
Primary Examiner, Art Unit 3739